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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,264	05/02/2001	Lyn Rosenboom	457009-2	6915
7590	01/18/2007		EXAMINER	
Michael C. Gilchrist			BATSON, VICTOR D	
Dorsey & Whitney LLP				
Suite 3900			ART UNIT	PAPER NUMBER
801 Grand Avenue			3671	
Des Moines, IA 50309				
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			01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/847,264	ROSENBOOM, LYN
	Examiner Victor Batson	Art Unit 3671

All participants (applicant, applicant's representative, PTO personnel):

- (1) Victor Batson. (3) \_\_\_\_\_.  
 (2) Michael Gilchrist. (4) \_\_\_\_\_.

Date of Interview: 09 January 2007.

Type: a) Telephonic b) Video Conference  
 c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.  
 If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1 and 6.

Identification of prior art discussed: none.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

### **Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### **Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews**

#### **Paragraph (b)**

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### **37 CFR §1.2 Business to be transacted in writing**

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted.
- 2) An identification of the claims discussed.
- 3) An identification of the specific prior art discussed.
- 4) An identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner.
- 5) A brief identification of the general thrust of the principal arguments presented to the examiner.  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) A general indication of any other pertinent matters discussed, and
- 7) If appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### **Examiner to Check for Accuracy**

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The attorney called to discuss amending the claims to define over the prior art of record and provided a proposed amendment. The examiner suggested further amending the claims with limitations directed to further defining the claimed structure, or further defining the relationship of the structure, with arguments detailing how the specific structure/relationship is important to applicant's invention and how it defines over the prior art. The examiner noted that the phrase "joined to" is considered a broad limitation that would be met by two members being joined by intermediate members. The examiner suggested using the phrase "directly connected to", which is considered more limiting if applicant is attempting to claim two members being directly connected to each other .

Application Serial No. 09/847,264

Inventor: Rosenboom

Art Unit 3671

Examiner Victor Batson

**Issues for Discussion for Examiner Interview: January 9, 2007**

Application Serial No. 09/847,264

(For Purposes of Discussion Only)

Applicant thanks the Examiner for his time and attention, and presents a brief synopsis of the issues intended for discussion. A copy of claim 1 (with proposed amendment) and claim 6 as it currently stands has been included. This document is presented for discussion purposes only.

**CLAIM 1 (with proposed amendment)**

1. (Currently Amended) A track assembly for use in a utility cart, the track assembly comprising:

a frame including a tensioning structure for adjustably spacing first and second wheels;

a top tandem arm pivotally connected to said frame such that said top tandem arm will pivot relative to said frame in a substantially vertical plane, said first wheel being mounted at one end of said frame on a top portion of said tandem arm joined to a top portion of said top tandem arm at one end of said frame;

a bottom tandem arm having a front portion, a rear portion, a top portion, and a bottom portion, said top portion of said bottom tandem arm being pivotally connected to a bottom portion of said top tandem arm;

a front tandem arm idler wheel operably connected to said front portion of said bottom tandem arm;

a rear tandem arm idler wheel operably connected to said rear portion of said bottom tandem arm; and

a belt in engagement with said tandem arm idler wheels and said first and second wheels.

**CLAIM 6**

6. (Previously Presented) A track assembly for distributing weight of an implement frame as it is towed across irregular ground, the track assembly comprising:

a wheel frame adapted for supporting the implement frame;

a first tandem arm pivotally connected to the wheel frame for rocking generally in a vertical plane about a first pivot axis;

a first wheel positioned at one end of said wheel frame and operably connected to said wheel frame by said first tandem arm and a second wheel operably connected to said wheel frame;

a continuous ground-engaging belt trained around said first and second wheels and defining an upper run and a lower run, said lower run in contact with the ground;

a first idler wheel structure supported by said first tandem arm such that said first idler wheel structure and said first wheel rock about said first pivot axis in a reciprocating manner to maintain a desired distribution of weight between said first wheel and said first idler wheel structure, said first idler wheel structure being in contact with said lower run between the first and second wheels; and

a hitch member connected to said wheel frame for towing said wheel frame forwardly over the ground, wherein said lower run rolls in contact with the ground and said idler wheel structure moves vertically with the first tandem arm as said wheel frame is towed forwardly over the irregular ground.

ISSUES TO DISCUSS (Claims 1 and 12)

- Claims are rejected as being anticipated based on Lykken.
- Idler wheel carriage 102 in Lykken is asserted as equivalent to the top tandem arm of the invention, and structure 193 in Lykken is asserted as being the bottom tandem arm.
- Claim 1 of the application (and claim 12 through dependency) requires that the first wheel be "mounted...on a top portion of said [top] tandem arm." The structure asserted as the first whccl, 164 in Lykken is mounted on what the Examiner asserts as the bottom tandem arm, 193 in Lykken. It appears the Examiner is arguing that the claim language does not require that the first wheel be connected directly to the top tandem arm, thus the reference anticipates because first wheel is connected to the bottom tandem arm which is, in turn, connected to the top tandem arm. In a previous Office Action, the Examiner cited a case that says the word "joined to" means directly connected to. Thus, we amended Claim 1 to include this particular language so that it is clear the first wheel needs to be directly connected to the top tandem arm.

ISSUES TO DISCUSS (Claim 6-8)

- Examiner has rejected these claims as being anticipated by Gignac.
- Claim 6 requires: a wheel frame adapted for supporting the implement frame; a first tandem arm pivotally connected to the wheel frame for rocking generally in a vertical plane about a first pivot axis; a first wheel positioned at one end of said whccl frame and operably connected to said wheel frame by said first tandem arm and a second wheel operably connected to said wheel frame; a first idler wheel structure supported by said first tandem arm such that said first idler wheel structure and said first wheel rock about

said first pivot axis in a reciprocating manner to maintain a desired distribution of weight between said first wheel and said first idler wheel structure.

- Examiner asserts tandem arm support structure 53 in Gignac as being the wheel frame described in the application. However, the claim requires that the frame be "adapted for supporting the implement frame," and this structure in Gignac is not supporting anything but the tandem arm. Also, the claim requires that the second wheel be "operably connected to said wheel frame." However, the structure the Examiner asserts as the second wheel in Gignac is not connected to the tandem support structure.